

SENATE COMMITTEE SUBSTITUTE

FOR

SENATE BILL NO. 228

AN ACT

To repeal sections 190.600, 190.603, 190.606, and 190.612, RSMo, and to enact in lieu thereof five new sections relating to do-not-resuscitate orders.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 190.600, 190.603, 190.606, and 190.612, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 190.600, 190.603, 190.606, 190.612, and 190.613, to read as follows:

190.600. 1. Sections 190.600 to 190.621 shall be known and may be cited as the "Outside the Hospital Do-Not-Resuscitate Act".

2. As used in sections 190.600 to 190.621, unless the context clearly requires otherwise, the following terms shall mean:

(1) "Attending physician":

(a) A physician licensed under chapter 334 selected by or assigned to a patient who has primary responsibility for treatment and care of the patient; or

(b) If more than one physician shares responsibility for the treatment and care of a patient, one such physician who has been designated the attending physician by the patient or the patient's representative shall serve as the attending physician;

(2) "Cardiopulmonary resuscitation" or "CPR", emergency medical treatment administered to a patient in the event of the patient's cardiac or respiratory arrest, and shall include cardiac compression, endotracheal intubation and other advanced airway management, artificial

ventilation, defibrillation, administration of cardiac resuscitation medications, and related procedures;

(3) "Department", the department of health and senior services;

(4) "Emergency medical services personnel", paid or volunteer firefighters, law enforcement officers, first responders, emergency medical technicians, or other emergency service personnel acting within the ordinary course and scope of their professions, but excluding physicians;

(5) "Health care facility", any institution, building, or agency or portion thereof, private or public, excluding federal facilities and hospitals, whether organized for profit or not, used, operated, or designed to provide health services, medical treatment, or nursing, rehabilitative, or preventive care to any person or persons. Health care facility includes but is not limited to ambulatory surgical facilities, health maintenance organizations, home health agencies, hospices, infirmaries, renal dialysis centers, long-term care facilities licensed under sections 198.003 to 198.186, medical assistance facilities, mental health centers, outpatient facilities, public health centers, rehabilitation facilities, and residential treatment facilities;

(6) "Hospital", a place devoted primarily to the maintenance and operation of facilities for the diagnosis, treatment, or care for not less than twenty-four consecutive hours in any week of three or more nonrelated individuals suffering from illness, disease, injury, deformity, or other abnormal physical conditions; or a place devoted primarily to provide for not less than twenty-four consecutive hours in any week medical or nursing care for three or more nonrelated individuals. Hospital does not include any long-

term care facility licensed under sections 198.003 to 198.186;

(7) "Outside the hospital do-not-resuscitate identification" or "outside the hospital DNR identification", a standardized identification card, bracelet, or necklace of a single color, form, and design as described by rule of the department that signifies that the patient's attending physician has issued an outside the hospital do-not-resuscitate order for the patient and has documented the grounds for the order in the patient's medical file;

(8) "Outside the hospital do-not-resuscitate order" or "outside the hospital DNR order", a written physician's order signed by the patient and the attending physician, or the patient's representative and the attending physician, in a form promulgated by rule of the department which authorizes emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from the patient in the event of cardiac or respiratory arrest;

(9) "Outside the hospital do-not-resuscitate protocol" or "outside the hospital DNR protocol", a standardized method or procedure promulgated by rule of the department for the withholding or withdrawal of cardiopulmonary resuscitation by emergency medical services personnel from a patient in the event of cardiac or respiratory arrest;

(10) "Patient", a person eighteen years of age or older who is not incapacitated, as defined in section 475.010, and who is otherwise competent to give informed consent to an outside the hospital do-not-resuscitate order at the time such order is issued, and who, with his or her attending physician, has executed an outside the hospital do-not-resuscitate order under sections 190.600 to 190.621. A person who has a patient's representative shall also be a

patient for the purposes of sections 190.600 to 190.621, if the person or the person's patient's representative has executed an outside the hospital do-not-resuscitate order under sections 190.600 to 190.621. A person under eighteen years of age shall also be a patient for purposes of sections 190.600 to 190.621 if the person has had a do-not-resuscitate order issued on his or her behalf under the provisions of section 191.250;

(11) "Patient's representative":

(a) An attorney in fact designated in a durable power of attorney for health care for a patient determined to be incapacitated under sections 404.800 to 404.872; or

(b) A guardian or limited guardian appointed under chapter 475 to have responsibility for an incapacitated patient.

190.603. 1. A patient or patient's representative and the patient's attending physician may execute an outside the hospital do-not-resuscitate order. An outside the hospital do-not-resuscitate order shall not be effective unless it is executed by the patient or patient's representative and the patient's attending physician, and it is in the form promulgated by rule of the department.

2. A patient under eighteen years of age is not authorized to execute an outside the hospital do-not-resuscitate order for himself or herself but may have a do-not-resuscitate order issued on his or her behalf by one parent or legal guardian or by a juvenile or family court under the provisions of section 191.250. Such do-not-resuscitate order shall also function as an outside the hospital do-not-resuscitate order for the purposes of sections 190.600 to 190.621 unless such do-not-resuscitate order authorized under the provisions of section 191.250 states otherwise.

3. If an outside the hospital do-not-resuscitate order has been executed, it shall be maintained as the first page of a patient's medical record in a health care facility unless otherwise specified in the health care facility's policies and procedures.

[3.] 4. An outside the hospital do-not-resuscitate order shall be transferred with the patient when the patient is transferred from one health care facility to another health care facility. If the patient is transferred outside of a hospital, the outside the hospital DNR form shall be provided to any other facility, person, or agency responsible for the medical care of the patient or to the patient or patient's representative.

190.606. The following persons and entities shall not be subject to civil, criminal, or administrative liability and are not guilty of unprofessional conduct for the following acts or omissions that follow discovery of an outside the hospital do-not-resuscitate identification upon a patient or a do-not-resuscitate order functioning as an outside the hospital do-not-resuscitate order for a patient under eighteen years of age, or upon being presented with an outside the hospital do-not-resuscitate order **[from Missouri, another state, the District of Columbia, or a territory of the United States]**; provided that the acts or omissions are done in good faith and in accordance with the provisions of sections 190.600 to 190.621 and the provisions of an outside the hospital do-not-resuscitate order executed under sections 190.600 to 190.621:

(1) Physicians, persons under the direction or authorization of a physician, emergency medical services personnel, or health care facilities that cause or participate in the withholding or withdrawal of cardiopulmonary resuscitation from such patient; and

(2) Physicians, persons under the direction or authorization of a physician, emergency medical services personnel, or health care facilities that provide cardiopulmonary resuscitation to such patient under an oral or written request communicated to them by the patient or the patient's representative.

190.612. 1. Emergency medical services personnel are authorized to comply with the outside the hospital do-not-resuscitate protocol when presented with an outside the hospital do-not-resuscitate identification or an outside the hospital do-not-resuscitate order. However, emergency medical services personnel shall not comply with an outside the hospital do-not-resuscitate order or the outside the hospital do-not-resuscitate protocol when the patient or patient's representative expresses to such personnel in any manner, before or after the onset of a cardiac or respiratory arrest, the desire to be resuscitated.

2. [Emergency medical services personnel are authorized to comply with the outside the hospital do-not-resuscitate protocol when presented with an outside the hospital do-not-resuscitate order from another state, the District of Columbia, or a territory of the United States if such order is on a standardized written form:

(1) Signed by the patient or the patient's representative and a physician who is licensed to practice in the other state, the District of Columbia, or the territory of the United States; and

(2) Such form has been previously reviewed and approved by the department of health and senior services to authorize emergency medical services personnel to withhold or withdraw cardiopulmonary resuscitation from the patient in the event of a cardiac or respiratory arrest.

Emergency medical services personnel shall not comply with an outside the hospital do-not-resuscitate order from another state, the District of Columbia, or a territory of the United States or the outside the hospital do-not-resuscitate protocol when the patient or patient's representative expresses to such personnel in any manner, before or after the onset of a cardiac or respiratory arrest, the desire to be resuscitated.】

(1) Except as provided in subdivision (2) of this subsection, emergency medical services personnel are authorized to comply with the outside the hospital do-not-resuscitate protocol when presented with a do-not-resuscitate order functioning as an outside the hospital do-not-resuscitate order for a patient under eighteen years of age if such do-not-resuscitate order has been authorized by one parent or legal guardian or by a juvenile or family court under the provisions of section 191.250.

(2) Emergency medical services personnel shall not comply with a do-not-resuscitate order or the outside the hospital do-not-resuscitate protocol when the patient under eighteen years of age, either parent of such patient, the patient's legal guardian, or the juvenile or family court expresses to such personnel in any manner, before or after the onset of a cardiac or respiratory arrest, the desire for the patient to be resuscitated.

3. If a physician or a health care facility other than a hospital admits or receives a patient with an outside the hospital do-not-resuscitate identification or an outside the hospital do-not-resuscitate order, and the patient or patient's representative has not expressed or does not express to the physician or health care facility the desire to be resuscitated, and the physician or health care facility is unwilling or unable to comply with the outside

the hospital do-not-resuscitate order, the physician or health care facility shall take all reasonable steps to transfer the patient to another physician or health care facility where the outside the hospital do-not-resuscitate order will be complied with.

190.613. 1. A patient or patient's representative and the patient's attending physician may execute an outside the hospital do-not-resuscitate order through the presentation of a properly executed outside the hospital do-not-resuscitate order from another state, the District of Columbia, or a territory of the United States, or a Transportable Physician Orders for Patient Preferences (TPOPP)/Physician Orders for Life-Sustaining Treatment (POLST) form containing a specific do-not-resuscitate section.

2. Any outside the hospital do-not-resuscitate form identified from another state, the District of Columbia, or a territory of the United States, or a TPOPP/POLST form shall:

(1) Have been previously reviewed and approved by the department as in compliance with the provision of sections 190.600 to 190.615;

(2) Not be accepted for a patient under eighteen years of age, except as allowed under section 191.250; and

(3) Not be effective during such time as the patient is pregnant as set forth in section 190.609.

A patient or patient's representative may express to emergency medical services personnel, at any time and by any means, the intent to revoke the outside the hospital do-not-resuscitate order.

3. The provisions of section 190.606 shall apply to the good faith acts or omissions of emergency medical services personnel under this section.